

June 10, 2005

Steve Resler
New York State Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231-0001

Dear Mr. Resler:

Enclosed is the Draft Restoration Plan and Environmental Assessment, Liberty Industrial Finishing Corporation Superfund Site, June 2005, Hazardous Substances Releases (RP/EA) (also available at <http://www.darp.noaa.gov>). The National Oceanic and Atmospheric Administration (NOAA), U.S. Fish and Wildlife Service (USFWS), and the New York State Department of Environmental Protection (NYSDEC), also known as the federal and state natural resource trustees (the "Trustees"), jointly prepared the RP/EA, pursuant to CERCLA and NEPA. The RP/EA describes the injuries caused by the releases of hazardous substances at the Liberty Superfund Site (the "Site"), and the proposed off-Site restoration project to address those injuries.

NOAA and the USFWS have determined that the projects proposed in the draft restoration plan are consistent to the maximum extent practicable with the enforceable policies of the New York State (NYS) Department of State (DOS) Coastal Management Program (CMP) in accordance with Title 15 of the Code of Federal Regulations (CFR), Part 930, Subpart C, and hereby request your concurrence with our determination.

The draft restoration plan identifies two candidate projects (including no action) and generally describes the Trustees' preferred project at Massapequa Lake. The intent of this proposed project at Massapequa Lake is to address the adverse effects caused by the release of hazardous substances and to meet the substantive requirements of the cooperative injury assessment. These descriptions are based on conceptual plans and will require additional planning and design before they are implemented. Furthermore, we may revise the plan after evaluating public comments (RP/EA pending noticing in the federal register). We will seek your authorization if any substantive changes are made to the RP/EA based on public comment.

The Draft Restoration Plan proposes the restoration of fish passage at the spillway downstream of Massapequa Lake as the preferred restoration alternative. Massapequa Lake is a 40-acre water body located near the southern end of the Massapequa Preserve in the Township of Oyster Bay, Nassau County, New York. Two architectural stone and concrete spillways, located at the southern end of Massapequa Lake, prevent anadromous fish passage from the estuarine habitat of the Lower Massapequa Creek to the freshwater habitat of Massapequa Lake and Creek. The spillways restrict the ability of anadromous fish to reach potential spawning areas in the lake. The most feasible option for restoring fish passage to this habitat is through construction of a fish ladder. Fish ladders were proposed and evaluated for the spillways at Massapequa Lake in Nassau County's Environmental Impact Statement (EIS) for Massapequa Preserve Streamflow Augmentation and Pond Restoration. This project received the support of the local community, the County, and the State. Dam removal was not considered in the EIS prepared under the New York State Environmental Quality Review Act (SEQRA). A fish ladder would provide a passageway for anadromous fish to return to the lake. It is presumed that installation of a fish

ladder and initial stocking of the lake will be sufficient to provide access to over 10 acres of habitat and will therefore compensate for injury to trust resources.

The proposed work focuses on the construction of a concrete or adjustable aluminum fish ladder at the spillway to allow fish anadromous fish passage into Massapequa Lake and promote spawning in the habitat. The type of fish ladder constructed will be dependent on both aesthetic concerns and budgetary constraints. We are in conceptual stage of the project and will complete a design document once the Draft RP/EA has been through the public review process. Restoration tasks identified include a topographic survey, a wetland delineation of the area, and installation of the fish ladder. The final plan may call for stocking of anadromous fish species in Massapequa Lake.

Given the circumstances of our project, we have identified how the NYS DOS Coastal Management Program Policies are affected and how the proposed action is consistent to the maximum extent with these policies. The Massapequa Lake area proposed for restoration is located within the Massapequa Creek Watershed which is a tributary to the South Oyster Bay, an area designated as significant coastal fish and wildlife habitat by the NYS DOS. South Oyster Bay provides significant fish and wildlife habitat but, as such, has been adversely affected by industrial and commercial activities. The proposed restoration will improve fish populations with in South Oyster Bay by promoting an annual spawning run of anadromous species into Massapequa Creek. There are no anticipated adverse impacts to South Oyster Bay due to the proposed restoration project.

Please review the proposed project and provide comments by July 15, 2005 to Reyhan Mehran, NOAA Coastal Resource Coordinator at (212) 637-3257, NOAA Office of Response and Restoration, 290 Broadway, 18th Floor, New York, NY 10007-1866. If we do not hear from you by July 15, then the trustees will assume that you have no further comments on this project. If we do not hear from you by July 15, then the Trustees will assume that you have no further comments on this project.

Sincerely,

Kate Clark
Injury Assessment Coordinator
NOAA Office of Response and Restoration

cc: w/o attachment: Jason Forman, NOAA/OGC
John Catena, NOAA/NMFS
Reyhan Mehran, NOAA/ORR
Mark Barash, DOI
Sharon Brooks, NYSDEC
David Keehn, NYSDEC
Ken Karwowski, USFWS